# IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No. 670 of 2007

Date of Decision: 23.10.2007

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Purshotam Chand … Petitioner

Versus

State of H.P. & ors. … Respondents.

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Coram:
**The Hon'ble Mr. Justice Deepak Gupta, Judge.**
**The Hon'ble Mr. V.K. Ahuja, Judge.**

***Whether approved for reporting?***

For the Petitioner : Mr.Shashi Bhushan, Advocate

For the Respondents : Mr. M.S.Chandel, Advocate General with Mr. J.S.Guleria, Law Officer for the respondents.

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**Deepak Gupta, J. (Oral).**

The petitioner was employed as Forest Guard with the respondent-State. He retired on superannuation on 30.4.2000. At the time of his retirement a departmental inquiry was pending against him and it was alleged that the petitioner along with three other officials, namely, Sant Ram, Deputy Ranger, Bishan Dass, Forest Guard and Puran Chand, Deputy Ranger had planted less number of trees. After his superannuation, the petitioner was not paid his retiral benefits such as death-cum-retirement-gratuity, pension etc. He was also not informed about the result of the inquiry.

Bishan Dass, Forest Guard, who had also been charge sheeted along with the petitioner, also retired on 31.3.2001 and was paid his retiral benefits.

The petitioner, who had retired one year earlier, was not paid his retiral benefits. The petitioner thereafter filed an original application before the learned Tribunal praying that the retiral benefits be released to him and that the respondents be directed to pay interest on the said amount. It was alleged in the petition that the petitioner has been exonerated in the inquiry and further that Bishan Dass has been paid the retiral benefits. The respondents did not deny the fact that the retiral benefits had been released to Shri Bishan Dass. According to the respondents this was due to an oversight.

During the pendency of the original application various orders were passed by the learned Tribunal. The inquiry report dated 17.7.2002 was placed on record. The inquiry officer exonerated all the officials of the charges leveled against them. Despite this exoneration by the Inquiry Officer the retiral benefits were not released and it was only after the Tribunal passed various orders that the State took up the plea that the matter is still pending before the Disciplinary Authority, i.e. the Secretary (Forests). The Secretary (Forests) passed an order on 30.5.2006 ordering recovery of Rs.5,169/- each from the petitioner and Shri Bishan Dass. After this order was passed, the other amounts payable to the petitioner were released to him and thereafter the learned Tribunal dismissed the original application as having become infructuous, even though the petitioner pressed for grant of interest on the delayed payment.

The only question is with regard to the payment of interest on the amounts which were withheld. The learned Tribunal has virtually not decided this issue and has held that the original application has

become infructuous. The learned Tribunal was totally wrong in holding so. The question as to whether the petitioner was entitled to interest or not should have been decided by the Tribunal. In the present case the petitioner was totally exonerated in the inquiry. There was no reason thereafter to withheld the amounts which were due and payable to the petitioner. After his retirement, at best, some amount should have been retained to protect the interest of the State and the balance amount should have been released to him. The petitioner has also been discriminated, inasmuch as the retiral benefits were paid to Shri Bishan Dass who retired after him, but were denied to him.

Keeping in view the aforesaid facts we are of the opinion that the petitioner is entitled to interest on the amounts which were wrongly withheld. The petitioner retired on 30.4.2000. The amounts of retiral benefits could have been released to him latest by 31.7.2000. There is no justification for withholding this amount thereafter. We, therefore, direct that the petitioner shall be entitled to simple interest on the amounts of retiral benefits withheld by the respondents (after deducting a sum of Rs. 5,169/- which have found due from him) @ 7.5% per annum w.e.f. 1.8.2000 till the date when the amount was actually paid to him. The interest be paid to the petitioner positively within 12 weeks from today. The writ petition is disposed of in the aforesaid terms. No costs.

( Deepak Gutpa ), J.

October 23, 2007 ( V. K.Ahuja ), J.

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